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SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16<sup>TH</sup> FLOOR  
ST LOUIS, MO 63102

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**JAN 26 2005**

In re Application of :  
Steven M. Shei :  
Application No. 10/698,693. : ON PETITION  
Filed: October 31, 2003 :  
Attorney Docket No. DKE 9757 :

**OFFICE OF PETITIONS**

This is a decision on the paper filed, April 16, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw an erroneous Notice entitled "Notice To File Missing Parts Of Nonprovisional Application," mailed March 29, 2004.

The petition is **GRANTED**.

The application was deposited on October 31, 2003. However, on March 29, 2004, the Office of Initial Patent Examination Division mailed a "Notice To File Missing Parts Of Nonprovisional Application," stating that a properly signed oath or declaration is missing.

In response, on April 16, 2004, the instant petition and a copy of a declaration/power of attorney was submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of the declaration/power of attorney submitted on October 31, 2003.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, since the evidence supports the fact that the declaration/power of attorney was in fact present on filing, the Notice mailed March 29, 2004 is **vacated**.

Since the declaration cannot be located in the Office, the copy of the declaration/power of attorney supplied on April 16, 2004 will be used for processing and examination purposes.

The application file is being referred to the Office of Initial Patent Examination for processing and for an indication that the declaration/power of attorney were included on filing and for mailing of a corrected filing receipt.

Application No. 10/698,693

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Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

*Frances Hicks for*

Brian Hearn  
Senior Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy